

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

NATIONAL AIR DUCT CLEANERS  
ASSOCIATION,

Plaintiff,

Hon. Janet T. Neff

v.

Case No. 1:10-cv-00798

GRAND RAPIDS AIR DUCT  
CLEANING, LLC, et al.,

Defendants.

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**REPORT AND RECOMMENDATION**

This matter is before the Court on Plaintiff's Motion for Entry of Default Judgment Against Defendants Grand Rapids Air Duct Cleaning, LLC, and West Michigan Air Duct Cleaning (Dkt. 57), which was referred to the undersigned by the Honorable Janet T. Neff for report and recommendation under 28 U.S.C. § 636(b)(1)(B). The motion was heard on April 30, 2012. Plaintiff seeks a default judgment against defendants Grand Rapids Air Duct Cleaning, LLC, and West Michigan Air Duct Cleaning.<sup>1</sup>

Plaintiff alleges that defendants were using its registered trademark and trade name without permission in the advertisement of defendants' business. Plaintiff claims to have attempted unsuccessfully to resolve the matter with defendants short of litigation. Default was entered against both defendants, on August 26, 2011 as to defendant West Michigan Air Duct

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<sup>1</sup> Defendant Alan Cook is deceased, and the case against defendant Dustin Meyers has recently been reopened as he has completed bankruptcy proceedings.

Cleaning (Dkt. 46) and on December 12, 2011 as to defendant Grand Rapids Air Duct Cleaning, LLC (Dkt. 51).

Neither defendant appeared at the April 30, 2012 hearing, either by counsel or otherwise. Defendant Grand Rapids Air Duct Cleaning also failed to comply with this Court's order compelling discovery within 60 days on August 9, 2011. West Michigan Air Duct Cleaning never answered the complaint or otherwise appeared. By sworn affidavit of the executive director of plaintiff National Air Duct Cleaners Association, John Schulte, plaintiff has supported both the liability of Grand Rapids Air Duct Cleaning and West Michigan Air Duct Cleaning as well as its request for damages consisting of lost profits in the amount of \$150,000 (Dkt. 58-2 and attached exhibits). By way of affidavit signed by one of its counsel, Mindy M. Johnson, it has supported its request for attorney fees in the amount of \$14,767.07 (Dkt. 58-4 and attached exhibits).

Therefore, the undersigned recommends that Plaintiff's Motion for Entry of Default Judgment Against Defendants Grand Rapids Air Duct Cleaning, LLC, and West Michigan Air Duct Cleaning (Dkt. 57) be granted, and that default judgment against Grand Rapids Air Duct Cleaning, LLC and West Michigan Air Duct Cleaning be entered in a form substantially complying with plaintiff's Exhibit C to its brief in support of the motion (Dkt. 58-3).

Respectfully submitted,

Date: May 1, 2012

/s/ Ellen S. Carmody  
ELLEN S. CARMODY  
United States Magistrate Judge

OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within 14 days of the date of service of this notice. 28 U.S.C. § 636(b)(1)(C). Failure to file objections within the specified time waives the right to appeal the District Court's order. *Thomas v. Arn*, 474 U.S. 140, 155 (1985); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).